



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/12/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.18867 of 2021

1. S.Sheik Mohamed Ismail
2. J.Mohamed Abdul Rahman

... Petitioners/Accused
Nos.1 & 2

Vs

State rep.by
The Sub Inspector of Police,
South Gate Police Station,
Madurai City.
(Crime No.1137 of 2020).

... Respondent/Complainant

For Petitioners: M/s.I.Sabeer Mohamed, Advocate.

For Respondent : M/s.S.S.Madhavan,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.1137 of 2020 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 323 and 506(i) I.P.C, in Cr.No.1137 of 2020, seek anticipatory bail.

2.The case of the prosecution is that due to family dispute, there was a wordy quarrel between the petitioners and the *defacto* complainant, the petitioners abused him with filthy language and also assaulted him. Hence, the present complaint.



3. The learned counsel for the petitioners would submit that anticipatory bail was already granted to him, by this Court in Crl.OP(MD)No.11521 of 2020 dated 16.10.2020 and the petition filed to extend time to comply with the condition imposed by this Court was dismissed, hence, the petitioners filed this petition. He would further submit that they are innocent and not committed any offence as alleged by the prosecution. Injured was already discharged from the hospital. Hence, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the investigation is not yet completed and that injured was discharged from the hospital.

5.It is not a dispute that the petitioners have already filed petition in Crl.OP(MD)No.11521 of 2020, seeking anticipatory bail and this Court granted anticipatory bail vide its order dated 16.10.2020, with certain conditions. Subsequently, the petitioners had filed another petition in Crl.MP(MD)No.7684 of 2021, seeking extension of time, for complying with the conditions imposed in Crl.OP(MD)No.11521 of 2020. This Court dismissed the said petition, with liberty to file a fresh petition, if so advised. In pursuance of the same, this petition is filed.

6.Considering the facts that except the offence under Section 506(i) IPC, the other offences are bailable in nature and that the petitioner had already been granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.IV, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;



(d) the petitioners shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

01/12/2021

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Sub-Assistant Registrar (C.S.III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
3. THE SUB INSPECTOR OF POLICE,
SOUTH GATE POLICE STATION,
MADURAI CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP (MD) No.18867 of 2021

Date : 01/12/2021